App. F. IX-4

Previous References

193 2.
(Law)

File No. 103-32

Serial Nos. 1 & 2

Later References

R & 2-32 & 107
R & 14-34 (1 & 4)
Mc 185-34 (1 & 4)

LR 533-41-4
RR Dep 83/40

PRESERVED

(20)

General and Revenue Secretariat.

Law 237-35 (1-4)
" 166-36 (1-4)
" 165-37 (1-5)
" 132-38 (1-3)
R & R 78-39 (1-3)
533-41 (1-4)
Serial Nos. 1 & 2
L.R. 386-42 (1-2)

Part B for May '33

SUBJECT.

Withdrawal of certain cases in which certain village officers were charged with misappropriation of Govt. revenue

2)

Circular no. P 5743-96 dt 4.5.33 directs that it should be the rule that the offender should be prosecuted and dealt with according to law unless the amount involved is trivial.

R. Mehrotra 4/5/33
10.5.33

28978/32

Withdrawal of Police Cases in Mysore Dn

[App. F. III—2

General and Revenue Secretariat

File No. HG 103 of 193

Serial No.

1) Extract from D.O. No. C.2. 169-32-33/Enc. One dated 15th November 1932 from the Inspector General of Police in Mysore to the Private Secretary to the Dewan.

[For original paper vide C.B. 1211]

2) First Member's minute dated 21st November 1932.

"x.x. As regards cases in which village officers were charged with misappropriation of Government revenue, the fact that the amount has been made good is ordinarily not a good ground for not proceeding with the prosecution. I should like to see the records of these cases."

(Intd) K.M.
21-11-1932.

3) Please get them.

(Intd) R.R.
21-11-1932.

4) Action may perhaps be taken about this in the Protection Branch.

Submd
CJO
22/11/32
Pl. Secy. Prohn.

5) Draft letter to the Dist Magistrate Mysore Dist is submitted for appl

23/11/32

To the Dist Magistrate Mysore Dist
Letter no P 29 35 dated 25.11.32
calling for the records connected with the withdrawal of certain cases

Sons A
25/11/32

NOTE—Contn. Sheet.

26

WD 70—GBPM—60,000—13-8-31

2. Withdrawal of Certain Cases in the Mysore Dist

Law File No. 103 of 1932 — General and Revenue Secretariat

6) The file relates to withdrawal of certain cases of misappropriation by Patels & Shanbhogs in the Mysore Dist. Such cases are being dealt with in the law Section generally.

7) If approved the may be transferred to the law Section

Pl. peruse

28/V/33

8) Reference para 2 supra.

The records leading to the misappropriation of Govt. revenue by some of the Village officers, have been received except that of one Subbaraya V. A. clerk of Heggadadevanakote taluk. From a perusal of the records it is seen that the following accused against whom the Complaints are preferred had misappropriated the several sums of money noted against their names.

Sl. No.	according to I.P.C. Section of I.P.C.	Name of the V. officer	Amount misappropriated
9.	409.	Patel Puttamadaiya Lingaiya.	Rs. 4-2-9
10.	"	"	Rs. 5-0-0.
15.	"	Shanbhog Eswaraiya	Rs. 87 2-6-11.
16.	"	Patel Puttamadaiya	
13.	"	" Mallaiya	Rs. 43-0-0.

Cases launched against all of them individually have been withdrawn for one reason or other.

Serial No.

In Case of Sh 9 + 10 withdrawal was asked on account of paltry sums of money misappropriated no. 9 was also re-instated, after several days of suspension. The amount misappropriated was made good.

Sh 15 & 16 were dismissed from service, and the withdrawal was asked on the ground that the punishment is enough for the offence committed. The amount was also recovered.

As regards Sh 3, the amount misappropriated was recovered, and the Case was asked to be withdrawn. He was also re-instated after due admonition.

In all these Cases there is tampering of accounts which amounts to a serious offence. Certain amount of responsibility is thrust upon these Village officers, and they are expected to be honest and clean. When once they are prosecuted for criminal misappropriation, the effect of prosecution will be lost if the Cases launched against them are withdrawn. The offenders have been dealt with very leniently. The punishments levied in way of suspension and dismissal will not meet the ends of justice.

Subordinate officers.

ISD 3/V

From

The D.C. Nellore

R.C. 94-1931 J 32-33 dt 14-2-33

for sending records relating to the case in which one T.S. Subbarao V.A. Clerk was involved.

9) Total amount misappropriated by T.S. Subbarao is 267-12-0. Out of 4 Cases launched against him, he was convicted in one, and the other 3 were withdrawn. The amount was recovered from his insurance money. There is some justification in withdrawing these 3 Cases.

ISD 14/3/33.

NOTE—Contn. Sheet.

4

10) The Inspector General of Police brought to the notice of Government that 10 cases instituted under Section 409 I.P.C. in the Mysore District, against Village Patels ~~am~~ or Shanbhogues in respect of misappropriation of revenue were withdrawn under orders of ~~the~~ the District Magistrate. In 7 of them (Nos. 9, 10, 13, 15, 16, 17 and 18 in the list sent by the Inspector General of Police ~~list~~), the charges were withdrawn as the amounts due made good, and in the remaining three (Nos. 20, 21 and 22) all of them being against the same person one Subba Rao - the cases were withdrawn on the ground of the accused having been convicted in another case.

'S'

As it was felt that the fact of the misappropriated amount being made good was not ordinarily a good ground for withdrawal of prosecution, records in all the ten cases were called for, as ordered by the Member on 21st November 1932 (Para 2 supra.).

11) Serials 9 and 10.

Serial No. 9 in the list of the Inspector General of Police ~~list~~ relates to a charge sheet placed against Patel Puttamadia of Kumbarahalli village for misappropriation of Rs. 4-3-9. In February 1927, the Patel collected this amount from Maridasegowda for khates Nos. 10 and 11 and gave him a receipt. The amount, however, was not duly credited, and the land itself was sold for arrears The party then complained and on enquiry the facts of misappropriation came to light. The Patel's version appears to be that he collected the amount and gave it

Serial No.

to the shanbhogue and that it is the latter who is - - responsible for the misappropriation.

The charge sheet was placed in the Special First Magistrate's Court on 2nd November 1931. The Patel approached the District Magistrate with a petition on 18th December 1931 praying for the withdrawal of the case. The District Magistrate ordered this case as also ~~xx~~ Serial No. 10 against Patel Lingia, a similar case of misappropriation of Rs. 4-2-0, to be withdrawn if the parties made good the amounts due to Government on the ground that "the cost of prosecution appears to be out of all proportion to the money that has been apparently misappropriated."

Both the Patels have been deprived of their offices departmentally. In the case of Patel Puttamadia, it is seen from his petition that he is an aged ~~xxxx~~ man of nearly 70 years and has been a gumasta Patel for over 50 years.

(2) Serial 13.

This is a case in which one Patel Mallia of Kare-halli grama is said to have misappropriated Rs. 43 out of the collections he made for and on behalf of the Village Panchayet. The Patel was placed under suspension and his prosecution was ordered by the Sub Division Officer. The patel, however, made good the amount and before the Police placed a charge sheet in the Magistrate's Court, he petitioned the Deputy Commissioner for reinstatement and for withdrawal from fruther prosecution. The Deputy Commissioner granted his prayer on the - -

NOTE—Contn. Sheet.

WD 0246 -GPB—15,000—22-8-32

ground that this being his first lapse, the suspension of 18 months already undergone was sufficient in the circumstances of the case.

In this case also, the Patel's version is that it is the shanbhogue - one Devia - that was responsible for the misappropriation. No action could be taken against the shanbhogue, since he was dead by the time the misappropriation was discovered.

13) Serial Nos. 15 to 18.-

These are cases against Patel Puttamadasetti and shanbhogue Eswaria of Mugur village instituted in the Court of the Special First class Magistrate of Mysore, for misappropriation and tampering of records. The amount misappropriated is said to be more than Rs. 800 and the shanbhogue seems to have admitted the misappropriation. The fact of his having removed pages of the khirdi and rewritten false accounts is also admitted. The patel appears to have been a party to the fraud. He, however, absconded and a non-bailable warrant was issued against him.

While the Criminal cases against them were proceeding in the Court, the uncle of the shanbhogue and the father of the Patel appeared before the Sub Division Officer and executed a Mutchalika to deposit the amounts misappropriated till, then and to stand as sureties for any further misappropriations that may come to light thereafter. They accordingly paid up Rs. 768-11-3 and the balance of about Rs. 103-9-8 was recovered out of the Potgi of nearly Rs. 300 due to the shanbhogue.

Serial No.

The Sub Division Officer reported these facts to the Deputy Commissioner and recommended the withdrawal of the cases. The District Magistrate passed orders on 17th February 1932 as follows:-

"As the full amount has been recovered and as the Patel has absconded the case may be withdrawn and the Patel and shanbhogue who is a gumasta dismissed. A report may be made to that effect also".

The Court records are not sent and it is not therefore clear what the result of the withdrawal was, - - whether a discharge or an acquittal.

The cases involved a very serious offence and the withdrawal ~~do~~ does not appear to have been fully justified. It is, however, interesting to note from the Sub Division Officer's letter of 11th December 1932 that there is another case of misappropriation against the - - shanbhogue which appears to be still under investigation.

(14) Serials 20, 21 and 22.

The records sent show that the one T.S. Subba Rao, Village Panchayet clerk of Heggadadevankote was guilty of various misappropriation to the extent of about - - Rs. 267-4-0. There were 4 cases launched against him and in one he was convicted and sentenced to 3 months R.I. and a fine of Rs. 75/-. The amount due is sought to be recovered out of the insurance money in the State ~~Life~~ Life Insurance. The Statement sent by the Inspector General of Police (Sls: 20, 21 & 22) ~~statement~~ shows that the other three cases were withdrawn under orders of the District Magistrate on the ground that the man was already convicted and sentenced.

NOTE—Contn. Sheet.

WD 0246 -GPB—15,000—22-8-32

8

Withdrawal of Cases against Village Officers charged with misappropriation of Govt money

4403

File No. of 193 . | General and Revenue Secretariat

The records sent however do not show the details of the chargesheets placed before the Court.

Submitted with reference to the Member's minute, para 2 supra.

(Chief Secy)

BNP 10/4

Second Member

NLL 11/4/33

Dewan

ISM 11/4

CHIEF SECRETARY 10 APR. 1933

Second Member's Secretariat 11 APR. 1933 No. 8465

15) Cases Nos 9, 10 & 13 are comparatively trivial. But No 15 & 18 in which about Rs 871 had been misappropriated & the Head Clerk had falsified accounts should not have been withdrawn.

16) In the withdrawal case 20 & 22 there might be some justification as the accused had been already convicted & sentenced to 3 months' R.I. each & fine in another case.

17) When a prima facie case of misappropriation is established in a departmental enquiry it should be the rule that the offender should be prosecuted unless the amt involved is trivial. The fact that the amt.

Withdrawal of Cases against certain Village officers.

Serial No.

15 APR. 1933
6796
DEPUTY SECRETARY'S OFFICE
No. 6059
19 APR. 1933

incurred has been subsequently paid up or recovered should not ordinarily be accepted as a ground for not prosecuting a case to withdrawal from a prosecution.

(b) Orders to this effect may be issued for the guidance of ~~all Collectors~~ Deputy Commissioners (the same could be issued to all Depts)

Just Member
Dewan J

bm
19/4/33

new new
18/4/33

mnp 18/4

mnp
(7/4/33

mnp
20/4/33 Hm 18.4

Hm 21/4 mnp 18/4

Draft →
mnp
21/4

Dft Circular and a letter to the Dy. Mys. are put up for approval

ISD 21/4

Put up typed drafts
mnp 21/4

Typing Section

NOTE—Contn. Sheet.

WD 0246 —GPB—15,000—22-8-32

Lo

4463

Law File No. 103 of 1932 | General and Revenue Secretariat

Typed dfts Subd.

ISD 24/4

Two drafts submitted for approval

Gen Secy) DSP 24/4

I Member Hm 27/4 DSP 27.4

Hm 28/4 HPM 28/4

Issue DSP 28/4

GENERAL DEPARTMENT
24 APR. 1933
No.

OFF
27 APR. 1933
No. 9010

To,

The D.C., Mysore

No. P. 5570 dated 1st May 1933 pointing out that Cases against Sls. 15-18 in the list should not have been withdrawn and stating that it should be the rule that the offender should be prosecuted unless the amount involved is trivial.

The D.Cs'

Hds of Depts

Circular no. P. 5743-96 dated 4th May 1933 directing that it should be the rule that the offender should be prosecuted and dealt with according to Law unless the amount involved is trivial

B

3/5/33

Extract from D.O.No. C2. 169-32-33/Encl.one, dated 15th November 1932 from the Inspector General of Police in Mysore to the Private Secretary to the Dewan.

X X X

In reply to Mr. Singaravelu's D.O.No.1042 dated the (* Not up in original) 10th October asking for a list of cases withdrawn in the Mysore District, I enclose such a list. It will be seen that it contains 25 cases covering a period of 18 months.

Of these cases, 10 were charges under Sec.409 I.P.C. against village Patels or Shanbogues in respect of misappropriation of revenue. In 7 of them (Nos.9, 10, 13, 15, 16, 17, and 18 in the list) the charges were withdrawn as the amounts due were made good: in the remaining three cases (Nos.20, 21 and 22) - all against the same person - the charges were withdrawn as the same accused was convicted in another case.

In another case under the same section, (No.4) apparently a private complaint, the charge was withdrawn as the accused made good the amount due, the action being done, evidently, at the request of the complainant. In two other cases (Nos.11 and 19) the charges were withdrawn for the same reason.

X X X

I am not in a position to say whether the withdrawal of charges relating to defaults in the State Revenue are justifiable but since in all such cases the amounts due were made good the State may have been satisfied. Possibly, also, action was taken private against the officials concerned though I cannot say that such was the case.

X X X

Appendix F G—1]

SUBJECT .....

.....

.....

Section Rev

File No. 11-32

Serial No.

Diary No. of letter replied to .....

No P-2935-/Sec I/32

To

The Dist Magistrate, Mysore Dist

Sir,

General and Revenue Secretariat

( )

the 193 .

I am directed to forward herewith a list showing the withdrawal of cases in a list to be typed of nos 9, 10, 13, 15, 16, 17 & 18, 20 3/1022 which village officers were charged with misappropriation of land Revenue and to state that the fact that the amount has been made good is ordinarily not a good ground for not proceeding with the prosecution.

Date of ~~these Standard~~ (Flag 'S') 25-11-32

Signed by

I am also to request you to be so good as to forward at an early date, the ~~Connected~~ records of these cases for perusal of Govt

List of enclosures .....

Copied by .....

Examined by .....

23/11/32

Yours etc

for Chief Secy to Govt

WD 71—GPBM—40,000—20-7-31.

3

24th November 1932.

The

The District Magistrate,
Mysore District, Mysore.

I am directed to forward herewith a list showing the withdrawal of certain cases in which village officers were charged with misappropriation of Government revenue and to request you to be so good as to forward at an early date, the records of these cases for the perusal of Government.

I have the honour to be,
Sir,
Your most obedient servant,

For Chief Secretary to Government.

2TSS.

3

24th November 1932.

The

The District Magistrate,
Mysore District, Mysore.

I am directed to forward herewith a list showing the withdrawal of certain cases in which village officers were charged with misappropriation of Government revenue and to request you to be so good as to forward at an early date, the records of these cases for the perusal of Government.

I have the honour to be,
Sir,
Your most obedient servant,

For Chief Secretary to Government.

2TSS.

18.	28/31	& 409	Do	Do	Eswariah(Shanbhog)	Do	Do
19.	42/30	406-477A.	Hunsur Kasba	Do	1.Narasimiah(Shanbhog) 2.Narasimha Murthy(Patel)	Do	Amount made good, base withdrawn.
20.	17/30	409	Heggadadevanakote	Do	G.S.Subba Rao	Do	He was convicted in one case and the other 3 were withdrawn.
21.	18/30	409	Do	Do	Do	Do	
22.	15/30	409	Do	Do	Do	Do	
23.	12/31	406/109	Gundlupet Range	Linganaika	Peerkhan & Eusoof Khan	D.S.P.Mysore	The accused was convicted in other 3 cases
24.	13/31	406/109	Do	Chennanaika	Do	Do	
25.	34/31-32	309	Yedathore Kasba	Government	Mota @ Kanthuraialli	Do	Withdrawn because the principal case under Section 302 I.P.C. was acquitted.

COPY

Inspector General of Police.

17/11/—

No. C4. 1919/32-33.
Encl. Seven bds,

Office of the Deputy Commissioner,
Mysore District.

Dated Mysore, 18th January 1933.

FROM

C. S. Kuppuswamiengar, Esq.,
Deputy Commissioner,
Mysore District.

TO

N. Madhava Rao, Esq., B.A., B.L.,
Chief *Secretary to the Government of Mysore,*
Bangalore.

SIR,

Re: Withdrawal of certain cases in which Village Officers were charged with misappropriation of Government revenue.

With reference to your No.P. 2935 Pol. 116-32-1 dated 25th November 1932, calling for the records of the above cases, I have the honour to enclose herein the records of this office and those of the offices subordinate to it; relating to the marginally noted cases.

1. Shanbhogue Eswariah and Patel Puttumadasetty of Mugur village, T. Narasipur taluk.
2. Patel Malliah of Kerehally village, Chamarajanagar taluk.
3. Patel Puttumadappa of Kumbarahalli village, Mysore taluk.
4. Patel Lingiah of Hadayana village, Mysore t/ taluk.

The records relating to the misappropriation of Panchayet amounts by T. S. Subba Rao, Village Panchayet Clerk of Heggadadevankote taluk office have not as yet been received from the Sub Division Officer, Mysore. He has been reminded to submit the same at once and on receipt of the records a further communication will be submitted.

I have the honour to be,
Sir,
Your most obedient servant,

For Deputy Commissioner,
Mysore District.
(Absent from Headquarters)

NRS

4403/32-6

No. C4. 1919/32-33.
Enc. 4 files

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT,

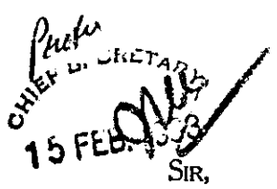
Dated, Mysore, 13th February 1933.

74

FROM C. S. Kuppuswamiengar, Esq.,
THE DEPUTY COMMISSIONER,
MYSORE DISTRICT, MYSORE.

To

N. Madhava Rao, Esq., B.A., B.L.,
Chief Secretary to the Government of
Mysore, Bangalore.



SIR,

Withdrawal of certain cases in which certain Village Officers were charged with misappropriation of Government money.

In continuation of this office report of even Number dated 18th January 1933 on the above subject, I have the honour to enclose herein as desired, the records of this office as well as of subordinate offices relating to the case in which one T. S. Subba Rao, Village Panchayet Clerk of Heggadadevankote Taluk Office was involved, for kind perusal.

I have the honour to be,
Sir,
Your most obedient servant,

Deputy Commissioner,
Mysore District.

NRS

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. P 5571 Ear 11 Jules / Law 163-32-1

Dated, Bangalore, 29th April 1933.

From

H.V. Ramaswami, Esq., M.A., B.L.,
General Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Deputy Commissioner,

Mysore District, Mysore.

Sir,

With reference to the correspondence ending with your letter No.C.4-1919/32-33 dated 14th February 1933 regarding the withdrawl of certain cases in which the Village Officers were charged with misappropriation of Government money, I am directed to observe that the cases against Patel Puttamadasetti and Shanbhog Eswariah of Mugur village, serial Nos. 15 to 18 in the list sent with this office letter No.P.2935 dated 25th November 1930 should not have been withdrawn. They involved misappropriation to the extent of about Rs.871 and the Shanbhog admitted having falsified accounts and tampered with Government records. I am to state that Government consider that when a prima facie case of Criminal misappropriation is established in a departmental enquiry, itshould be the rule that the offender should be prosecuted, unless the amount involved is trival. The fact that the amount has been subsequently paid up or recovered should not ordinarily be accepted as a ground for not prosecuting or for withdrawing from a prosecution.

The entire records sent in this connection are herewith returned.

I have the honour to be,

Sir,

Your most obedient servant,

29/4/33

for General Secretary to Government.

ISD

2 copies

No P 3510 (Sen 11 file) Law 8 103-32

Law 103-32-1 S 7/S/33

TO

THE DEPUTY COMMISSIONER,

MYSORE DISTRICT, M Y S O R E

S I R,

With reference to the correspondence ending with your letter No.C_4.1919/32-33 dated 14th February 1933 regarding the withdrawal of certain cases in which the Village Officers were charged with misappropriation of Government money, I am directed to observe that the cases against Patel Puttamadasetti and Shanbhog Eswariah of Mugur village, serial Nos: 15 to 18 in the list sent with this office letter No. P. 2935 dated 25th November 1930 should not have been withdrawn. They involved misappropriation to the extent of about Rs. 871 and the Shanbhog admitted having falsified accounts and tampered with Government records. I am to state that Government consider that when a prima facie case of Criminal misapprpriation is established in a departmental enquiry, it should be the rule that the offender should be prosecuted, unless the amount involved is trival. The fact that the amount has been subsequently paid up or recovered should not ordinarily be accepted as a ground for not prosecuting, or for withdrawing from a prosecution.

P.T.O.

The entire records sent in this connection are herewith returned.

I have etc.,

General Secretary to Government.

TSS.

40

10 P.S.743-96/Rev.103-32-2

CIRCULAR. 4-5-33

In certain cases which have come to the notice of Government it is observed that prosecutions launched against village officers or other public servants who were found to have committed grave offences like misappropriation of Government money or tampering of Government records were withdrawn when the parties concerned made good the amount misappropriated or the same was recovered otherwise.

Government desire to point out for the guidance of the Deputy Commissioners and ~~other~~ Heads of Departments that mere departmental action in such cases do not meet the ends of justice. Government consider that when a prima facie case of criminal misappropriation is established in a departmental enquiry, it should be the rule that the offender should be prosecuted and dealt with according to law unless the amount involved is trivial. The fact that the amount involved has been subsequently paid up or recovered should not ordinarily be accepted as a ground for not prosecuting or for withdrawing from prosecution.

By Order,

24/4

General Secretary to Govt.

To

The Deputy Commissioners of Districts.
The Heads of Departments.

24/4

TSS.